



UST Cleanup Fund Sub Account Financial Assistance Programs

September 20, 2006

State Water Resources Control Board



UST Cleanup Fund Sub Account Programs

- ❖ Orphan Site Cleanup Account (OSCA)
 - ❖ Emergency, Abandoned & Recalcitrant Program (EAR)
 - ❖ Commingled Plume Account (CPA)
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ORPHAN SITE CLEANUP ACCOUNT (OSCA)

OSCA is a *financial assistance* program to assist eligible applicants cleanup “brownfield sites” contaminated by leaking petroleum underground storage tanks where there is no financially responsible party.

- ❖ OSCA Program added to Chapter 6.75 Section 25299.50.2 of the California Health and Safety Code. Effective January 1, 2005.
 - ❖ OSCA Final Regulations became effective July 28, 2006.
 - ❖ OSCA will sunset on January 1, 2008.
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WHAT IS A BROWNFIELD?

A brownfield is defined by the following criteria:

- ❖ Located in urban area. Urban area means the central portion of a city or a group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population density of at least 1,000 persons per square mile.
 - ❖ The site was previously the site of an economic activity that is no longer in operation.
 - ❖ The site has been vacant or has had no occupant engaged in year round economically productive activities for the year prior to the filing an application.
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FUNDING

- ❖ \$10,000,000 appropriation for fiscal years 05, 06, 07.
 - ❖ OSCA monies will be awarded to Projects in grant agreements between the Grantee (applicant) and the Grantor (SWRCB).
 - ❖ Maximum per occurrence (Project) is \$1.5 million.
 - ❖ No deductibles.
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ELIGIBLE PROJECTS

An application process is used to determine eligible projects.

❖ **Eligible Applicant:**

1. Not eligible for UST Cleanup Fund.
2. Did not cause or contribute to release.
3. Not affiliated with any person who caused or contributed to release.

❖ **Eligible Site:**

1. Must Qualify as brownfield.
2. Principal source is petroleum UST.

❖ **No Financially responsible party**

PRIORITY POINTS

2 Tier Priority Scheme

If demand for OSCA funds exceeds the available supply, OSCA will determine priority ranking based on date Application received and priority points based on the following criteria:

- ❖ 40 Points = Water Quality - Site located within 1000 feet of a drinking water well or surface water.
 - ❖ 30 points = Environmental Justice - Site located in a census tract with median household income less than 80% of the statewide median household income.
 - ❖ 30 points = Redevelopment - Project will result in in development of affordable inner city housing or otherwise promote infill development.
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OSCA BUSINESS PROCESS

1. Review applications for eligibility.
 2. Notify applicants of acceptance/rejection.
 3. Send pre Grant Agreement paperwork to eligible applicants.
 4. OSCA Priority List (2 Tier Priority Scheme).
 5. Negotiate Grant Agreement.
 6. Process and execute Grant Agreement.
 7. Receive and process Grant Agreement Payment Requests.
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GRANT FUNDING AND TIMELY CLEANUPS

- ❖ Due to time limitations, the OSCA Program will encourage expeditious site assessments and timely cleanups.

 - ❖ **ASSESSMENT GRANTS**
 1. Site assessment activities up to a corrective action plan. Includes tank removal, free product removal and limited soil excavation.
 2. Expanded Scope of Work- Phase work to be comprehensive.

 - ❖ **CLEANUP GRANTS**
 1. Unless otherwise exempted, Pay for Performance groundwater cleanups required.
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OSCA ACTIVITY

- ❖ As of June 2006 - 16 projects received grants totaling \$7.1 million
 - ❖ As of October 2006 - 10 projects projected to receive grants.
 - ❖ Approximately \$20 million in grant money available.
 - ❖ OSCA Program will receive applications on an on-going basis until September 2007.
 - ❖ January 1, 2008 - Program ends. Any monies encumbered prior to January 1, 2008 can be liquidated based on the terms of the grant agreement.
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OSCA PROGRAM CONTACTS

OSCA PROGRAM STAFF:

Judy Reid (916) 341-5760 jreid@waterboards.ca.gov

Pat Preslar (916) 341-5756 ppreslar@waterboards.ca.gov

OSCA Program information:

Posted on www.waterboards.ca.gov/cwphome/ustcf
under an option identified as “OSCA”.

Interested Parties

Signup and subscribe to the OSCA electronic mailing list AB1906 (Orphan Site Cleanup Account) to be notified of future OSCA updates at
www.waterboards.ca.gov/lyrisforms/swrcb_subscribe.html

EMERGENCY, ABANDONED & RECALCITRANT (EAR) ACCOUNT

Purpose of EAR Account is to provide funding to the Regional Water Quality Control Boards and local agencies to conduct corrective action activities at petroleum UST sites that have had an unauthorized release.

- ❖ \$5,000,000 million annual appropriation
 - ❖ EAR Program will sunset on January 1, 2011
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FUNDING REQUESTS

Abandoned and Recalcitrant Funding

Up to \$1.5 million

Annual survey conducted to obtain a list of nominated sites for the EAR Annual Site List.

Site Nomination Requirements include:

1. Confirmed UST petroleum release.
 2. Failure by a RP(s) to meet a Final Corrective Action Order
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FUNDING REQUESTS

Prompt Action Funding – Up to \$200,000

Available if prompt action required and where required corrective action at a site can't wait until the next EAR Annual Site List.

All prompt action requests must be approved under Resolution by both the Regional and State Water Boards.

FUNDING REQUESTS

Emergency Funding - up to \$100,000

Available to initiate emergency response where immediate action is required and delay would endanger human health and the environment.

1. Requests made to EAR Account Administrator.
 2. If determined to be a bona fide emergency, funds available immediately.
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FUNDING TOOLS

REGIONAL WATER BOARDS

Contracts - administered by
Department of General Services

LOCAL AGENCIES

Letters of Award issued by
State Water Board

COST RECOVERY

State Water Board has authority to seek appropriate cost recovery from an owner, operator or other Responsible Party for EAR costs expended.

1. Filing of a Judgment Lien
 2. Referral to Attorney General's Office
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EAR PROGRAM CONTACTS

EAR PROGRAM STAFF:

Judy Reid (916) 341-5760 jreid@waterboards.ca.gov

Pat Preslar (916) 341-5756 ppreslar@waterboards.ca.gov

EAR Program information:

Posted on www.waterboards.ca.gov/cwphome/ustcf
under an option identified as “EAR”.

COMMINGLED PLUME ACCOUNT (CPA)

The Commingled Plume Account is a financial assistance program created to encourage responsible parties who have contributed to commingled plumes to:

Coordinate cleanup efforts

Avoid litigation

Effectively and efficiently use resources

- ❖ \$10,000,000 million annual appropriation
 - ❖ CPA Program will sunset on January 1, 2011
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CPA APPLICATION

A CPA claim application must
include the following:

1. Signatures of all joint claimants.
 2. Information necessary to determine eligibility
 3. Individual UST Cleanup Fund applications for each of the joint claimants
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CPA ELIGIBILITY REQUIREMENTS

- ❖ Joint Claimants
 - ❖ Plume Confirmation
 - ❖ Written Agreement
 - ❖ Two contributing sites
 - ❖ 85% Rule
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CPA ELIGIBILITY REQUIREMENTS

❖ Joint Claimants

Each person named in the joint claim is an owner, operator or other responsible party ordered to perform corrective action or remedial action.

❖ Plume Confirmation

Lead agency must support and document a commingled plume exists identifying all contributing sites and whether those sites are considered to be substantial contributors.

CPA ELIGIBILITY REQUIREMENTS

❖ Written Agreement

Joint claimants must have entered into a Written Agreement that provides for a coordinated corrective action plan.

❖ Two Contributing Sites

❖ 85% Rule

At least 85% of the plume is compromised of petroleum contamination resulting from a tank whose owner or operator is eligible for payment from the UST Cleanup Fund.

CPA PRIORITY LIST AND FUNDING

CPA PRIORITY LIST

A CPA claim will be placed on the CPA Priority List once a Written Agreement is reviewed and meets all statutory requirements and the State Water Board concurs a commingled plume exists.

CPA FUNDING

A CPA Claim will receive a Letter of Commitment once the claim is on the CPA Priority List and funds are available.

CPA ACTIVITY

As of September 2006:

- ❖ 34 CPA claims have been funded
 - ❖ \$36,184,261 has been paid
 - ❖ CPA Program is running at capacity
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CPA PROGRAM CONTACT

CPA PROGRAM STAFF:

Judy Reid (916) 341-5760 jreid@waterboards.ca.gov

CPA Program information:

Posted on www.waterboards.ca.gov/cwphome/ustcf

under an option identified as “Claim Forms and Information” .
